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nucleic acid molecule wherein the nucleic acid molecule is in sense orientation, classified in class 800, subclass 290 for example.

Group II: Claim 6, drawn to an antibody, classified in class 530, subclass 387.1 for example.

Group III: Claims 9 and 10, drawn to a method of producing a transgenic plant having seed with an altered isoprenoid compound level comprising transforming a plant with a nucleic acid molecule wherein the nucleic acid molecule is in antisense orientation, classified in class 800, subclass 290 for example.

Applicants respectfully traverse the restriction requirement, and provisionally elect the claims of Group I, Claims 1-5 and 7-9 drawn to a substantially purified nucleic acid molecule encoding a protein, transformed cell, transgenic plant and method of producing a transgenic plant having seed with an altered isoprenoid compound level comprising transforming a plant with a nucleic acid molecule, classified in class 800, subclass 290 for example, for further prosecution. The Office Action mailed March 21, 2003 further provides that "If Applicant elects either Group I or Group III, Applicant is also to elect one nucleic acid sequence from list 'A' and one corresponding amino acid sequence from list 'B'". Applicants respectfully traverse the requirement for election of one nucleic acid and one corresponding amino acid sequence, and provisionally elect nucleic acid SEQ ID NO: 3 and amino acid sequence SEQ ID NO: 48.

Applicants submit that the complete examination of the application would be handled most expeditiously by treating all of the pending claims as a single entity. As Section 803 of the MPEP directs, "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to

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distinct or independent inventions.” Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted into the three groups of claims. Therefore, Applicants request that all of the claims be examined together at this time.

No serious burden is created for the Examiner by running a simultaneous computerized search of the four claimed nucleic acid sequences. The single search may be run in conjunction with databases such as those available at <http://www.ncbi.nlm.nih>. Further, the requirement for an election of a single nucleotide sequence by the Examiner is contrary to the policy of the USPTO as set forth in Official Gazette, 1192 O.G. 68 (November 19, 1996) and MPEP Section 2434, Examination of Patent Applications Claiming Large Numbers of Nucleotide Sequences: “the Commissioner has partially waived the requirements of 37 CFR 1.141 and will permit a reasonable number of such nucleotide sequences to be claimed in a single application. Under this policy, in most cases, up to 10 independent and distinct nucleotide sequences will be examined in a single application without restriction.”

If the Examiner finds that there is an undue burden to examine all of the claims together at this time, Applicants respectfully request that at least one of the following modifications to the Restriction Requirement be accepted by the Examiner.

Applicants respectfully request that the Restriction Requirement be modified to examine the claims of Groups I and III together. 37 C.F.R. § 1.141 states that “...more than one species of an invention...may be specifically claimed in different claims in one national application, provided the application also includes an allowable claim generic to all the claimed species and all the claims to species in excess of one are written in dependent form...or otherwise include all the limitations of the generic claim.” Claim 9 is directed to a method of producing a transgenic

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plant having seed with an altered isoprenoid compound level by transforming a plant with a nucleic acid molecule and transforming the plant. "Altered" encompasses both raised and lowered levels of isoprenoid compound level. Claim 9 encompasses both sense and antisense orientations of the nucleic acid molecule. Claim 10 is directed to the antisense orientation of the nucleic acid molecule. Thus, claim 10 is a species of the broader genus of claim 9. In accordance with 37 C.F.R. § 1.141, the species claim 10 is dependent upon the genus claim, claim 9. In light of this, it is requested that the Restriction Requirement be modified to include the claims of Groups I and III together.

At the very least, it is believed that the claims of Groups I and III should be considered together. The plant is transformed with the same nucleic acid sequence, with the sequence in sense orientation in claim 9 and in antisense orientation in claim 10. The examiner has indicated that the same class and subclass will be searched for both claim 9 and claim 10. Since only one class and subclass would have to be searched, no serious burden would be imposed on the Examiner by searching both groups simultaneously, so at the very least, the Restriction Requirement should be modified so that both Groups I and III are examined together.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore should be withdrawn. Alternatively, Applicants request that the Examiner modify the Restriction Requirement to examine the claims of Groups I and III together. However, in order to facilitate prosecution, Applicants have provisionally elected, with traverse, Group I, Claims 1-5 and 7-9 and further have provisionally elected, with traverse, nucleic acid sequence SEQ ID NO: 3 and amino acid sequence SEQ ID NO: 48.

It is not believed that extensions of time or fees for net addition of claims are required beyond those that may otherwise be provided for in the documents accompanying this paper.

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However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account Number 50-1100, referencing docket number 16516.107. Applicants likewise authorize a charge to Deposit Account Number 50-1100 for any other fees related to the present application that are not otherwise provided for in the accompanying documents.

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants' undersigned representative at (847) 457-5055.

Respectfully submitted,



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